

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6667 of 1998

ORDER:

This writ petition is filed challenging the order made in C.T.A.No.298 of 1997 dated 3.2.1998 on the file of the Cooperative Tribunal, Hyderabad.

The petitioner was the President of third respondent society. It seems the society, on the basis of report of the Inspecting Officer dated 20.8.1994 and 17.5.1995 initiated proceedings under Section 60 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') against the petitioner. A show cause notice dated 21.8.1995 was issued calling explanation of the petitioner as to why surcharge proceedings should not be initiated against him for the irregularities committed by him. The petitioner submitted his explanation on 13.9.1995 denying the allegations. Thereafter, impugned proceedings under Section 60 of the Act were issued on 2.11.1995 directing the surcharged persons to remit an amount of Rs.62,168/-. Aggrieved by the same, petitioner filed C.T.A.No.298 of 1997 before the first respondent. The first respondent-Tribunal, after hearing both the parties, dismissed the appeal by order dated 3.2.1998 confirming the order passed by the second respondent dated 2.11.1995. Aggrieved by the same, the present writ petition is filed.

There is no necessity of going into all the details.

The only complaint of the petitioner is that surcharge proceedings were initiated on the basis of inspection conducted under Section 51 of the Act and straightaway show cause notice was issued without conducting any enquiry as contemplated under Section 60 of the Act. Though the petitioner denied the allegations made in the show cause notice, no further enquiry was conducted and no opportunity was given to him and final surcharge proceedings were passed. The first respondent-appellate authority also did not look into this aspect except stating that the explanation submitted by the petitioner to the show

cause notice was well considered by the authorities. It is unfortunate that the appellate authority took such a view. In fact, mere issuance of show cause notice is not sufficient under the provisions of the Act. If the petitioner refutes the allegations made in the show cause notice, the authorities should conduct a detailed enquiry on the basis of the records available by furnishing the same to the petitioner. In this case, the respondents did not adopt such a course of action. Under those circumstances, the order passed by the second respondent as confirmed by the first respondent-Tribunal are in gross violation of principles of natural justice and therefore, they are liable to be set aside.

Accordingly, the writ petition is allowed and the order passed by the second respondent dated 2.11.1995 as confirmed by the first respondent in C.T.A.No.298 of 1997 dated 3.2.1998 are set aside. The matter is remanded back to the second respondent for fresh consideration. The second respondent, after giving notice to the petitioner and furnishing all the copies of the documents relied by the Department and after giving a personal hearing, shall conduct enquiry afresh under Section 60 of the Act and pass appropriate orders as per law. There shall be no order as to costs.

C.V.RAMULU, J

Date: 11.7.2006
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**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6667 of 1998

Dated: 11th July, 2006

Between:

Ram Mallaiah

.. Petitioner

and

Cooperative Tribunal, Hyderabad,
M.J.Road, Hyderabad & others.

.. Respondents